

LAS VEGAS POLICE DEPARTMENT	ADMINISTRATION
SUBJECT: <i>Immunity from Arrest</i>	NUMBER: ADM.8
EFFECTIVE DATE: <i>9 September 2010</i>	REVIEW DATE:
AMENDS/SUPERSEDES:	APPROVED:
NMMLEPSC STANDARDS: <i>ADM.02.06</i>	<i>Chief of Police Gary Gold</i> NMSA:

I. PURPOSE:

The purpose of this policy is to ensure the efficient and effective management of the Immunity from Arrest function by providing administrative guidance that identifies the responsibilities and immunity processes within the uniform and all other components of the department.

II. POLICY:

It is the policy of the Las Vegas Police Department to manage the function of Immunity from Arrest, in an effective and efficient manner by coordinating the efforts of uniform and all other organizational components as provided in this policy.

III. APPLICABILITY:

This policy applies to all commissioned employees of the Las Vegas Police Department.

IV. REFERENCES:

- A. Article I, Section 6, U.S. Constitution
- B. Article IV Section 13, Constitution of New Mexico
- C. NMMLEPSC ADM 02.06

V. DEFINITIONS:

- A. Legislative Immunity- The immunity of a legislator from civil liability arising from performance of legislative duties.
- B. Diplomatic Immunity- The general exemption of diplomatic ministers from the exception being that a minister who is plotting against the security of the host nation may be arrested and sent out of the country.

VII. **PROCEDURE:**

Members of the United States Congress are exempt from arrest when Congress is in session, or when they are en route to or from congressional business, except for traffic summonses. {Article I, Section 6, U.S. Constitution}

A. Legislative Immunity

Members of the New Mexico Legislature are exempt from arrest during a legislative session except in cases of treason, a felony, or a breach of the peace. {Article IV Section 13, Constitution of New Mexico}

B. Diplomatic immunity

1. Upon exhibiting proof of diplomatic immunity, persons shall be released upon being stopped for a misdemeanor traffic violation. If questions arise about this procedure, or if an arrest for a felony is necessary, call and advise the U.S. State Department Office of Security {202-673-3881, days, or 202-647-2412, nights and weekends}.
2. While a person claiming diplomatic immunity may present any number of identification papers, the only one that is indicative of the level of privilege and immunity is a card issued by the U.S. State Department. The holder's level of immunity will be indicated on the card. If a person claiming immunity does not possess this card and the incident involves a criminal offense, officers may detain the person either at the scene or at the department long enough to verify official status.
3. Encounter
 - a. Safety
 1. When in contact with a criminal suspect who claims diplomatic immunity, officers shall first take reasonable safety measures frisks or other legal searches if necessary to ensure safety to the public or other officers.
 2. Verification of the diplomatic claim shall take place after a danger has been neutralized.

b. Investigation

1. A full scale criminal investigation shall proceed as if no valid diplomatic immunity claim has been made.
2. Interviews, interrogations, seizures of evidence, or issuance of warrants shall proceed as per departmental procedure.
3. In a criminal investigation, the Chief shall remain in contact with the State Department.
4. **Regardless of the claim of immunity, in any case where officers arrest or detain foreign nationals, the suspects shall be advised of their right to have their consular officials notified.** In some cases, this notification is mandatory. Note: the list of countries which require mandatory notification of consular officials in the event that one of their citizens has been arrested is extensive. The State Department shall be contacted for guidance.
5. Upon detaining any foreign national with diplomatic immunity, the State Department will be notified. This includes death of a minor or adult, or a foreign national who is incompetent, or a foreign national who required assistance.

VII. ATTACHEMENTS:

None